

FILED

JUN - 7 2006

CLERK, U.S. DISTRICT COURT

By _____

Deputy

ORIGINAL
 Jerry J. Jarzombek, Esq.
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IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF TEXAS
 FORT WORTH DIVISION

KEITH WISHON, Plaintiff, vs. REGENT & ASSOCIATES, LLP and STAN BROWN, Defendants.	Civil Action No. 4 - 06 CV - 397 - A COMPLAINT and DEMAND FOR JURY TRIAL (Unlawful Debt Collection Practices)
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Preliminary Statement

1. Plaintiff, Keith Wishon., brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA"), as well as under the Texas Debt Collection Act, Tex. Finance Code § 392.001, *et seq.* ("TDCA") and the Texas Deceptive Trade Practices Act, Subchapter E, Chapter 17, Business & Commerce Code ("DTPA"), to obtain statutory damages, injunctive relief, declaratory relief, and other relief for the Defendants' violations of the FDCPA, the TDCA and the DTPA.

2. Defendants, Regent & Associates, LLP ("Regent") and Stan Brown ("Brown") attempted to collect a consumer debt ("Debt") allegedly owed by Plaintiff, arising from a purported obligation to Unifund CCR Partners ("Unifund"). The obligation ("Debt") required Plaintiff to pay money arising out of transactions in which money, property, insurance, or services were the subject thereof and the same were primarily for personal, family, or household purposes.

Jurisdiction and Venue

3. Jurisdiction of this Court attains pursuant to 15 U.S.C. § 1692k(d), 28 U.S.C. §§ 1331 and 1337(a), and the doctrine of pendent jurisdiction for the TDCA claims pursuant to 28 U.S.C. § 1367.

4. Venue in the Northern District of Texas is proper under 28 U.S.C. § 1391(b)-(c) and because the acts and transactions occurred here and the Defendants transact business here.

Parties

5. Plaintiff is a citizen of the State of Texas. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3) and Tex. Finance Code § 392.001(1).

6. Regent is a law firm engaged in the business of collecting consumer debts in the Northern District of Texas. The principal purpose of Regent's business is the collection of consumer debts using the mails and telephone, and it regularly attempts to collect consumer debts for others. Regent is a "debt collector" as defined by 15 U.S.C. § 1692a(6) and Tex. Finance Code § 392.001(6). Regent is also a "third-party debt collector" as defined by Tex. Finance Code § 392.001(7).

7. Brown is an individual engaged in the business of collecting consumer debts in the Northern District of Texas. The principal purpose of Brown's business is the collection of consumer debts using the mails and telephone, and Brown regularly attempts to collect consumer debts for others. Brown is a "debt collector" as defined by 15 U.S.C. § 1692a(6) and Tex. Finance Code § 392.001(6). Brown is also a "third-party debt collector" as defined by Tex. Finance Code § 392.001(7). Brown is employed by Regent as a Collector.

Factual Allegations

8. On or about December 8, 2005, Plaintiff had a telephone conversation with Brown. The conversation occurred after Regent had filed suit against the Plaintiff to collect the Debt purported owed to Unifund. During that conversation, Brown made several representations to the Plaintiff, including the following:

- a. that he was a "senior account representative with Regent & Associates."
- b. "with the size of this balance, sir, to be honest with you, they would throw on roughly 20% of the balance in post judgment interest, as well as request attorney's fees..."
- c. "I do not want the judgment to be implemented on this account ... the only thing that's gonna stop the lawsuit is making payments on this account or paying it out..."
- d. "...once they get the judgment ... they walk directly from the judge's office and go right to the real property records and file it with them..."
- e. when Plaintiff asked if there would be a lien on his home, Brown replied, "that is the lien" [referring to the filing in the preceding paragraph].
- f. Brown then described the acts of the constable when executing against a judgment. Plaintiff asked about his car, to which Brown replied, "it's possible – they could take vehicles."

g. when Plaintiff inquired about the increase in the balance sought to be collected brown stated: “any funds that are exerted for collection purposes – they throw those on to the balance … because … under the terms of the contract the consumer is responsible for that also … you basically have to pay to get a constable to come out and serve you your paperwork and also for us to file the suit … the consumer flips that deal…”

9. After reasonable opportunity for further investigation and discovery, the Plaintiff says that the Plaintiff will have evidentiary support to show that his home and his car are exempt property, not subject to execution by Regent and/or Regent’s client.

10. After reasonable opportunity for further investigation and discovery, the Plaintiff says that the Plaintiff will have evidentiary support to show that post judgment interest would not be added to any judgment in the amount of “roughly 20%.”

11. After reasonable opportunity for further investigation and discovery, the Plaintiff says that the Plaintiff will have evidentiary support to show that the consumer does not pay for filing and service fees attendant to litigation, unless he is a losing party or otherwise ordered by a court of competent jurisdiction.

12. After reasonable opportunity for further investigation and discovery, the Plaintiff says that the Plaintiff will have evidentiary support to show that the lawsuit filed against him by Regent was non-suited, contrary to the representation that “the only thing that’s gonna stop the lawsuit is making payments on this account or paying it out…”

13. The foregoing acts and omissions were undertaken on behalf of the Defendants by their respective officers, agents, or employees acting at all times relevant hereto within the scope of that relationship.

14. The foregoing acts and omissions of the Defendants were undertaken by each of them willfully, intentionally, knowingly, and/or in gross disregard of the rights of the Plaintiff.

15. The foregoing acts and omissions of the Defendants were undertaken by each of them indiscriminately and persistently, as part of their regular and routine collection efforts, and without regard to or consideration of the identity or rights of the Plaintiff.

First Claim for Relief

16. The Plaintiff repeats, realleges, and incorporates by reference the foregoing paragraphs. The Defendants' violations of the FDCPA include, but are not limited to the a. following:

- a. In violation of 15 U.S.C. § 1692d, the Defendants, Regent and Brown, engaged in conduct the natural consequence of which was to harass, oppress, or abuse a person in connection with the collection of a debt, which conduct included:
 - i. Advising Plaintiff that "the only thing that's gonna stop the lawsuit is making payments on this account or paying it out..."
 - ii. Advising Plaintiff that his home was subject to a lien to satisfy a potential judgment;
 - iii. Advising Plaintiff that his car was subject to execution to satisfy a potential judgment;
 - iv. Advising Plaintiff that post-judgment interest is "roughly 20%,"
 - v. Advising Plaintiff of contractual terms, including Plaintiff's liability for filing and service fees.
- b. In violation of 15 U.S.C. § 1692e, 15 U.S.C. § 1692e (2)(a), 15 U.S.C. § 1692e(10), and the "least sophisticated consumer standard," the Defendants used objectively false representations and/or false, deceptive, or misleading representations or means in connection with the collection of a consumer debt.

- c. In violation of 15 U.S.C. § 1692e(5) and the "least sophisticated consumer standard," the Defendants threatened to take an action which cannot legally be taken or that is not intended to be taken.
- d. In violation of 15 U.S.C. § 1692f, the Defendants, Regent and Brown, used unfair or unconscionable means to collect or attempt to collect a consumer debt, which conduct included:
 - i. Advising Plaintiff that "the only thing that's gonna stop the lawsuit is making payments on this account or paying it out..."
 - ii. Advising Plaintiff that his home was subject to a lien to satisfy a potential judgment;
 - iii. Advising Plaintiff that his car was subject to execution to satisfy a potential judgment;
 - iv. Advising Plaintiff that post-judgment interest is "roughly 20%;"
 - v. Advising Plaintiff of contractual terms, including Plaintiff's liability for filing and service fees.

17. Under 15 USC § 1692k, the Defendants' violations of the FDCPA render them jointly and severally liable to Plaintiff for statutory damages, declaratory relief, costs, and reasonable attorney's fees.

Second Claim for Relief

18. The Plaintiff repeats, realleges, and incorporates by reference the foregoing paragraphs. The Defendants' violations of the TDCA include, but are not limited to the following:

- a. In violation of Tex. Fin. Code § 392.301(a)(8), Defendants threatened to take (and/or did take) an action prohibited by law.
- b. In violation of Tex. Fin. Code Ann. § 392.302(1), Defendants have attempted to collect a debt through oppression, harassment, or abuse by using language intended to abuse unreasonably the hearer or reader.
- c. In violation of Tex. Fin. Code § 392.304(a)(8), the Defendants misrepresented the character of a consumer debt.

- d. In violation of Tex. Fin. Code § 392.304(a)(12) the Defendants misrepresented that a consumer debt may be increased by the addition of attorney's fees, investigation fees, service fees, or other charges if a written contract or statute does not authorize the additional fees or charges.
- e. In violation of Tex. Fin. Code § 392.304(a)(13) the Defendants misrepresented that a consumer debt will definitely be increased by the addition of attorney's fees, investigation fees, service fees, or other charges if the award of the fees or charges is subject to judicial discretion.
- f. In violation of Tex. Fin. Code § 392.304(a)(19), Defendants used false representations and deceptive means to collect a consumer debt.

19. Under Tex. Fin. Code Ann. § 392.403, the Defendants' violations of the TDCA render them jointly and severally liable to Plaintiff for statutory damages, injunctive relief, declaratory relief, costs, and reasonable attorney's fees.

Third Claim for Relief

20. The Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs. Pursuant to Tex.Fin.Code Ann. § 392.404, the Defendants' violations of the TDCA also constitute a deceptive trade practice under Subchapter E, Chapter 17, Business & Commerce Code ("DTPA"), and is actionable under that subchapter.

21. Under Tex. Bus. & Com. Code Ann. § 17.50(b)(2), the Defendants' violations of the DTPA render them jointly and severally liable to Plaintiff for injunctive relief, and reasonable attorney's fees.

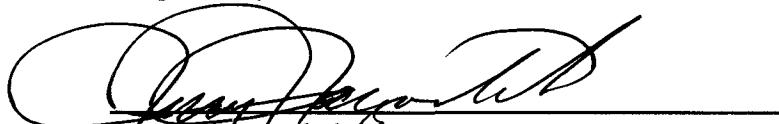
Prayer for Relief

WHEREFORE, the Plaintiff prays that this Court:

1. Declare that Defendants' actions violate the FDCPA, the TDCA and the DPTA.
2. Enjoin the Defendants' actions which violate the TDCA and the DTPA.
3. Enter judgment in favor of Plaintiff and against Defendants, jointly and severally, for statutory damages, costs, and reasonable attorneys' fees as provided by 15 U.S.C. § 1692k(a) and/or Tex. Fin. Code Ann. § 392.403
4. Grant such further relief as deemed just.

Dated: June 7, 2006.

Respectfully submitted,



Jerry J. Jarzombek
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Fax: 817-348-8328

ATTORNEY FOR PLAINTIFF

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury in this action.

Dated: June 7, 2006.

Respectfully submitted,



Jerry J. Jarzombek

Texas Bar No. 10589050

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Fort Worth, Texas 76104
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ATTORNEY FOR PLAINTIFF

ORIGINAL
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JS 44 (Rev 11/04)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

I. (a) PLAINTIFFS Keith Wishon	DEFENDANTS <div style="text-align: right; margin-top: -20px;">JUN - 7 2006</div>
(b) County of Residence of First Listed Plaintiff <u>Tarrant</u> (EXCEPT IN U.S. PLAINTIFF CASES)	
County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)	
<small>NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED</small>	
(c) Attorney's (Firm Name, Address, and Telephone Number) Jerry J. Jarzombek, The Law Office of Jerry Jarzombek, PLLC 714 W. Magnolia Avenue, Fort Worth, Texas 76104 817-348-8325	
II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	
<input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	
<input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	
III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)	
Citizen of This State <input type="checkbox"/> 1 <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State <input type="checkbox"/> 4 <input type="checkbox"/> 4	
Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5	
Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6	

IV. NATURE OF SUIT (Place an "X" in One Box Only)				
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	FORFEITURE/PENALTY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	BANKRUPTCY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	
OTHER STATUTES <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes				
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609				

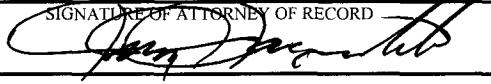
V. ORIGIN <input type="checkbox"/> 1 Original Proceeding	(Place an "X" in One Box Only) <input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	Transferred from another district (specify)
<input type="checkbox"/> 5 Multidistrict Litigation				
Appeal to District Judge from Magistrate Judgment				

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

VI. CAUSE OF ACTION	Brief description of cause Unlawful debt collection: FDCPA (15 USC 1692)
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ 1,000 +	CHECK YES only if demanded in complaint JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	(See instructions).	JUDGE	DOCKET NUMBER
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DATE Jue 7, 2006 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # FW389 AMOUNT 350 APPLYING IFFP JUDGE A MAG JUDGE